

HOUSE BILL 1025

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11r0165
CF SB 849

By: **The Speaker (By Request – Administration)**

Introduced and read first time: February 11, 2011

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2011

CHAPTER _____

1 AN ACT concerning

2 ~~Natural Resources~~ **State Government – Land Acquisitions and Transfers of**
3 **Property**

4 FOR the purpose of requiring the Department of Natural Resources to negotiate land
5 acquisitions under certain circumstances; requiring the Department to obtain a
6 certain number of independent appraisals of a property before certain
7 acquisitions; requiring certain land acquisition contracts to be approved and
8 executed by the Board of Public Works; requiring the Department to give
9 written notice of potential land acquisitions to certain governmental bodies
10 under certain circumstances; authorizing certain governmental bodies to submit
11 written comments to the Department in a certain timeframe; requiring the
12 Board of Public Works to supervise certain expenditures for certain land
13 acquisitions; authorizing the Department to dispose of certain land under
14 certain circumstances; authorizing the Board of Public Works to exempt certain
15 projects from certain requirements; requiring the Department to adopt certain
16 regulations, including regulations developed in consultation with the
17 Department of General Services; making technical corrections; requiring the
18 Department of Natural Resources to prepare and revise a certain plan in
19 consultation with the Department of Planning; exempting certain land
20 acquisitions by the Department from certain land acquisition requirements;
21 altering a certain definition to ~~include~~ exclude certain land acquisitions by the
22 Department; exempting certain property transfers from certain appraisal
23 requirements; authorizing the Department to submit certain property
24 appraisals to the Board of Public Works; and generally relating to land
25 ~~acquisition and planning functions performed~~ acquisitions by the Department of

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Natural Resources and transfers of property among certain units of State
 2 government.

3 BY adding to
 4 Article – Natural Resources
 5 Section 1–109
 6 Annotated Code of Maryland
 7 (2005 Replacement Volume and 2010 Supplement)

8 BY repealing and reenacting, with amendments,
 9 Article – Natural Resources
 10 Section 5–903(e), 5–904(d), 5–906(b), and 5–1222
 11 Annotated Code of Maryland
 12 (2005 Replacement Volume and 2010 Supplement)

13 BY repealing and reenacting, without amendments,
 14 Article – Natural Resources
 15 Section 5–906(a)
 16 Annotated Code of Maryland
 17 (2005 Replacement Volume and 2010 Supplement)

18 BY repealing and reenacting, with amendments,
 19 Article – State Finance and Procurement
 20 Section 4–412, ~~5–7B–01(e)(1)~~ 5–7B–01(c), 10–304, and 10–305(b)
 21 Annotated Code of Maryland
 22 (2009 Replacement Volume and 2010 Supplement)

23 BY repealing and reenacting, without amendments,
 24 Article – State Finance and Procurement
 25 Section 10–305(a)
 26 Annotated Code of Maryland
 27 (2009 Replacement Volume and 2010 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 29 MARYLAND, That the Laws of Maryland read as follows:

30 **Article – Natural Resources**

31 **1–109.**

32 **(A) (1) THE DEPARTMENT SHALL NEGOTIATE THE ACQUISITION OF**
 33 **REAL PROPERTY FOR OPEN SPACE, RECREATION, CONSERVATION, AND OTHER**
 34 **PURPOSES UNDER THIS ARTICLE.**

35 **(2) THE DEPARTMENT SHALL MAKE EACH ACQUISITION UNDER**
 36 **THIS SUBSECTION IN THE NAME OF THE STATE TO THE USE OF THE**
 37 **DEPARTMENT.**

1 **(B) EXCEPT FOR REAL PROPERTY THAT IS ACQUIRED BY GIFT, BEFORE**
2 **ANY REAL PROPERTY IS ACQUIRED FROM A PRIVATE OWNER, THE DEPARTMENT**
3 **SHALL OBTAIN TWO INDEPENDENT APPRAISALS OF THE PROPERTY.**

4 **(C) (1) A CONTRACT FOR THE ACQUISITION OF LAND UNDER THIS**
5 **SECTION SHALL BE APPROVED AND EXECUTED BY THE BOARD OF PUBLIC**
6 **WORKS.**

7 **(2) AT LEAST 40 DAYS BEFORE THE BOARD OF PUBLIC WORKS**
8 **MAY ACT ON A LAND ACQUISITION UNDER THIS SECTION, THE DEPARTMENT**
9 **SHALL GIVE WRITTEN NOTICE OF A POTENTIAL ACQUISITION OF LAND:**

10 **(I) TO THE GOVERNING BODY OF THE COUNTY IN WHICH**
11 **THE LAND IS LOCATED; AND**

12 **(II) IF THE LAND IS LOCATED WITHIN A MUNICIPAL**
13 **CORPORATION, TO THE GOVERNING BODY OF THE MUNICIPAL CORPORATION.**

14 **(3) WITHIN 30 DAYS AFTER RECEIVING NOTICE UNDER THIS**
15 **SUBSECTION, THE GOVERNING BODY MAY SUBMIT WRITTEN COMMENTS TO THE**
16 **DEPARTMENT.**

17 **(D) THE BOARD OF PUBLIC WORKS SHALL SUPERVISE THE**
18 **EXPENDITURE OF ANY MONEY THAT THE GENERAL ASSEMBLY APPROPRIATES**
19 **FOR THE ACQUISITION OF LAND UNDER THIS SECTION.**

20 **(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
21 **DEPARTMENT MAY DISPOSE OF LAND OWNED AND MANAGED BY THE**
22 **DEPARTMENT AS CONSIDERATION FOR THE ACQUISITION OF LAND NOT OWNED**
23 **BY THE DEPARTMENT.**

24 **(2) IN IMPLEMENTING THIS SUBSECTION, THE DEPARTMENT**
25 **SHALL COMPLY WITH THE PROCEDURES ESTABLISHED UNDER TITLE 5,**
26 **SUBTITLE 3 AND TITLE 10, SUBTITLE 3 OF THE STATE FINANCE AND**
27 **PROCUREMENT ARTICLE.**

28 **(F) THE BOARD OF PUBLIC WORKS MAY EXEMPT PROJECTS UNDER**
29 **THIS SECTION FROM THE PROVISIONS OF THIS SECTION.**

30 **(G) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO**
31 **IMPLEMENT THIS SECTION.**

32 **(2) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS**
33 **SUBSECTION SHALL INCLUDE A SYSTEM FOR APPRAISAL REVIEW DEVELOPED**

1 **BY THE DEPARTMENT IN CONSULTATION WITH THE DEPARTMENT OF GENERAL**
2 **SERVICES.**

3 5-903.

4 (e) (1) The Department may, with the approval of the Board of Public
5 Works, use acquisition funds to make matching or refundable grants to land trusts for
6 the acquisition of interests or rights in real property for recreational or open space
7 purposes.

8 (2) [Notwithstanding the provisions of §§ 4-411 through 4-414 of the
9 State Finance and Procurement Article, subject] **SUBJECT** to the availability of funds
10 and in accordance with other provisions of this article regarding open space and
11 wildland areas, the Department may enter into agreements with a land trust for the
12 State to acquire title to or an interest or right in property owned by the land trust or
13 property on which the land trust holds an option or a contract to purchase.

14 (3) An agreement under this subsection shall be subject to approval by
15 the Board of Public Works under [§ 4-415 of the State Finance and Procurement
16 Article] **§ ~~1-107(C)~~ 1-109(C) OF THIS ARTICLE.**

17 5-904.

18 (d) (1) [Notwithstanding § 4-412 of the State Finance and Procurement
19 Article, the] **THE** Department and the Maryland Environmental Trust, with the
20 approval of the Board of Public Works, may:

21 (i) Use State project funds under Program Open Space to
22 contribute towards, or reimburse the Department of Transportation for, a portion of
23 the costs of acquiring any fee titles, restrictive covenants, or conservation easements
24 for which the Department of Transportation spends federal funds for transportation
25 enhancements, as defined in Title 23, United States Code, §§ 101(a) and 133; and

26 (ii) Acquire the fee titles, restrictive covenants, or conservation
27 easements from the Department of Transportation or any of its agents.

28 (2) State project funds under Program Open Space may be used to
29 contribute toward, or reimburse the Department of Transportation for, a portion of the
30 costs of acquiring any fee titles, as specified in paragraph (1) of this subsection, only
31 for acquisitions that are contained in the most current consolidated transportation
32 plan of the State.

33 5-906.

34 (a) Each local project shall conform to a comprehensive plan the local
35 governing body approves and have the approval of official planning agencies having
36 jurisdiction, including comprehensive planning agencies.

1 (b) Every acquisition and development project funded by the State in whole
 2 or in part shall meet needs identified in the Maryland Land Preservation and
 3 Recreation Plan prepared and revised every 6 years by the Department IN
 4 **CONSULTATION WITH THE DEPARTMENT** of Planning [in cooperation with the
 5 Department]. The document shall identify and recommend for State acquisition efforts
 6 those resource areas facing the most intense or immediate development pressure.
 7 These resource areas shall be designated as targeted areas. The document and any
 8 changes to it shall be distributed to every local governing body.

9 5-1222.

10 [Notwithstanding the provisions of §§ 4-411 through 4-414 of the State Finance
 11 and Procurement Article, subject] **SUBJECT** to the availability of funds and in
 12 accordance with other provisions of this article regarding open space and wildland
 13 areas, the Secretary may enter into agreements with the Nature Conservancy for the
 14 State to acquire title to or an interest in property owned by the Nature Conservancy or
 15 property on which the Nature Conservancy holds an option or a contract to purchase.

16 **Article – State Finance and Procurement**

17 4-412.

18 (a) Except as otherwise provided in this section, the Division exclusively
 19 shall negotiate the acquisition of land[:

20 (1)] for any public improvement[; and

21 (2) for any State project funded under the State share of Program
 22 Open Space].

23 (b) The Division shall make each State acquisition in the name of:

24 (1) the unit of the State government; or

25 (2) the principal department of the State government to which the
 26 unit belongs.

27 (c) The Division is not responsible for acquiring land for a local project.

28 (d) (1) The Division is not responsible for developing any acquired land.

29 (2) Development of any land acquired under Program Open Space is
 30 the responsibility of the unit of the State government.

31 **(E) THE PROVISIONS OF THIS SECTION AND §§ 4-413 THROUGH 4-416**
 32 **OF THIS SUBTITLE DO NOT APPLY TO LAND ACQUIRED BY THE DEPARTMENT OF**

1 **NATURAL RESOURCES UNDER TITLE 1, SUBTITLE 1 OF THE NATURAL**
2 **RESOURCES ARTICLE.**

3 5-7B-01.

4 (c) (1) "Growth-related project" means only the items set forth below:

5 (i) any major capital project as defined in § 2-103.1(a)(4) of the
6 Transportation Article, except existing transportation facilities projects as defined in §
7 4-101(i) of the Transportation Article, project planning as defined in § 8-610(i) of the
8 Transportation Article, or initial project planning as defined in § 8-610(e) of the
9 Transportation Article;

10 (ii) funding by the Department of Housing and Community
11 Development for:

12 1. construction or purchase of newly constructed single
13 family homes or purchase of loans for newly constructed single family homes under
14 Title 4, Subtitle 2, Subtitle 3, or Subtitle 8 of the Housing and Community
15 Development Article;

16 2. acquisition or construction of newly constructed
17 multifamily rental housing under Title 4, Subtitle 2, Subtitle 4, or Subtitle 15 of the
18 Housing and Community Development Article; or

19 3. State-funded neighborhood revitalization projects
20 under Title 6 of the Housing and Community Development Article;

21 (iii) funding by the Department of Business and Economic
22 Development under any of the following:

23 1. the Maryland Industrial Development Financing
24 Authority, authorized under Title 5, Subtitle 4 of the Economic Development Article;

25 2. the Maryland Small Business Development Financing
26 Authority, authorized under Title 5, Subtitle 5 of the Economic Development Article;

27 3. the former Maryland Energy Financing Act,
28 authorized under former Article 83A, Title 6, Subtitle 4 of the Code, succeeded by the
29 Maryland Industrial Development Financing Authority;

30 4. the Economic Development Opportunities Program
31 Fund, authorized under § 7-314 of this article;

32 5. the former Maryland Competitive Advantage
33 Financing Fund, authorized under former Article 83A, Title 5, Subtitle 13 of the Code;
34 and

1 6. the Maryland Economic Development Assistance
2 Authority and Fund, authorized under Title 5, Subtitle 3 of the Economic Development
3 Article;

4 (iv) funding by the Department of the Environment, for any
5 project under:

6 1. §§ 9–1601 through 9–1605 (Water Quality Revolving
7 Loan Fund) of the Environment Article except for funding nonpoint source pollution
8 projects;

9 2. §§ 9–420 through 9–426 (Water Supply Financial
10 Assistance Program) of the Environment Article; and

11 3. the supplemental assistance program authorized
12 under Title 9, Subtitle 3, Part VI of the Environment Article; and

13 (v) except as provided in paragraph (2) of this subsection,
14 procurement or funding of projects by the Department of General Services for:

15 1. leases of property by the State governed by §§ 4–318
16 through 4–321 of this article; and

17 2. land acquisition governed by §§ 4–411 through 4–416
18 of this article;~~AND~~

19 ~~(VI) PROCUREMENT OR FUNDING OF PROJECTS BY THE~~
20 ~~DEPARTMENT OF NATURAL RESOURCES FOR LAND ACQUISITION UNDER §~~
21 ~~1-109 OF THE NATURAL RESOURCES ARTICLE.~~

22 (2) “Growth-related project” does not include:

23 (i) projects by the Department of General Services for
24 maintenance, repair, additions, or renovations to existing facilities, acquisition of land
25 for telecommunications towers, parks, conservation and open space, and acquisition of
26 agricultural, conservation, and historic easements;

27 (ii) funding by the Department of Housing and Community
28 Development for any project financed with federal moneys used to purchase or
29 rehabilitate existing single or multifamily housing or project financed with the
30 proceeds of revenue bonds issued by the Community Development Administration if:

31 1. the Secretary of Housing and Community
32 Development determines that application of this section:

1 A. conflicts with any provision of federal or State law
2 applicable to the issuance or tax-exempt status of the bonds;

3 B. conflicts with any provision of any trust agreement
4 between the Community Development Administration and any trustee; or

5 C. would otherwise prohibit financing of an existing
6 project, or financing provided to cure or prevent any default under existing financing;
7 or

8 2. the revenue bonds are issued under a transfer of the
9 Maryland State ceiling to the Administration by a county under Title 13, Subtitle 8 of
10 the Financial Institutions Article; [or]

11 **(III) ACQUISITION OF LAND BY THE DEPARTMENT OF**
12 **NATURAL RESOURCES UNDER TITLE 1, SUBTITLE 1 OF THE NATURAL**
13 **RESOURCES ARTICLE; OR**

14 **[(iii)] (IV) any other project, funding, or other State assistance**
15 **not listed under paragraph (1) of this subsection.**

16 10-304.

17 (a) This section does not apply to:

18 (1) property that is pledged to secure the payment of principal of or
19 interest on revenue bonds; or

20 (2) real property that is owned or controlled by the State Highway
21 Administration, **UNLESS THE PROPERTY IS BEING TRANSFERRED TO THE**
22 **MARYLAND TRANSPORTATION AUTHORITY OR TO ANOTHER UNIT IN THE**
23 **DEPARTMENT OF TRANSPORTATION.**

24 (b) (1) The Board may transfer any property, and all rights of physical
25 custody and control over the property, from a unit of the Executive Branch of the State
26 government to another unit of the Executive Branch of the State government.
27 ~~TRANSFERS~~

28 **(2) ANY PROPERTY TRANSFERRED UNDER THIS SUBSECTION ARE**
29 **IS EXEMPT FROM THE APPRAISAL REQUIREMENTS UNDER § 10-305(B)(2)(I) OF**
30 **THIS TITLE.**

31 ~~(2)~~ **(3)** Any property transferred under this subsection is subject to the
32 continuing general jurisdiction of the Board.

33 10-305.

1 (a) Subject to subsection (b) of this section, any real or personal property of
2 the State or a unit of the State government may be sold, leased, transferred,
3 exchanged, granted, or otherwise disposed of:

4 (1) to any person, to the United States or any of its units, or to any
5 unit of the State government, for a consideration the Board decides is adequate; or

6 (2) to any county or municipal corporation in the State subject to any
7 conditions the Board imposes.

8 (b) (1) (i) Except as provided under subparagraph (ii) of this
9 paragraph, this subsection applies to the sale, transfer, grant, or exchange of:

10 1. real property identified under § 5-310(c)(1) of this
11 article; and

12 2. State-owned real or personal property, funded in
13 accordance with an appropriation act of the General Assembly, that has an appraised
14 value over \$100,000.

15 (ii) This subsection does not apply to the following dispositions
16 of property identified in subparagraph (i) of this paragraph:

17 1. leasing the property; or

18 2. the sale, transfer, grant, or exchange of a corrective or
19 access easement on the property.

20 (2) The Board may not approve the sale, transfer, exchange, or grant
21 of property until:

22 (i) the Department of General Services **OR THE DEPARTMENT**
23 **OF NATURAL RESOURCES UNDER TITLE 1, SUBTITLE 1 OF THE NATURAL**
24 **RESOURCES ARTICLE** has submitted to the Board two independent appraisals of the
25 property that:

26 1. with regard to real property, consider the value of any
27 restrictive covenant that may be placed on the property; and

28 2. may not be publicly disclosed if the property is to be
29 sold at auction;

30 (ii) the following information has been submitted, by electronic
31 mail or facsimile and by certified mail, to the Senate Budget and Taxation Committee,
32 the House Appropriations Committee, and, for property that meets both criteria of
33 paragraph (1)(i) of this subsection, the Legislative Policy Committee:

- 1 1. a description of the property; and
- 2 2. if applicable, any justification for not selling,
3 transferring, exchanging, or granting the property in a manner that generates the
4 highest return for the State;
- 5 (iii) 45 days have elapsed since:
 - 6 1. the information required by item (ii) of this paragraph
7 was received by the appropriate committees; and
 - 8 2. the Board declared the property surplus; and
- 9 (iv) except for property sold under paragraph (4) of this
10 subsection, for property that meets both criteria under paragraph (1)(i) of this
11 subsection and for which the Board intends to approve a fee simple sale, transfer,
12 exchange, or grant, the General Assembly has approved the proposed disposition as
13 provided under paragraph (3) of this subsection.
- 14 (3) (i) Within 45 days after receiving the information submitted
15 under paragraph (2) of this subsection, the Legislative Policy Committee shall:
 - 16 1. review the information and the public record created
17 by the Department of Planning for the property; and
 - 18 2. A. approve the proposed disposition of the surplus
19 property and refer the property back to the Board for final disposition; or
20 B. refer the proposed disposition of the property to the
21 full General Assembly and notify the Board of the referral.
- 22 (ii) If the Legislative Policy Committee fails to take any action
23 under subparagraph (i)2 of this paragraph within the specified time period, the
24 proposed disposition shall be deemed approved by the Committee.
- 25 (iii) 1. If the proposed disposition of the surplus property is
26 referred by the Legislative Policy Committee to the full General Assembly, the
27 proposed disposition may not be approved by the Board unless it is approved by the
28 passage of legislation during the next legislative session of the General Assembly.
- 29 2. In any legislation passed in accordance with
30 subsubparagraph 1 of this subparagraph, the General Assembly may approve the
31 proposed disposition with or without conditions.

1 (4) If the Board has declared the property surplus, the Board shall sell
2 the property to the federal government, a local government, or a unit of federal or local
3 government for \$1.00, if:

4 (i) the government or unit has indicated its interest in
5 acquiring the land; and

6 (ii) a restrictive covenant is placed on the deed of transfer, in
7 accordance with § 5-906(e)(7) and (8) of the Natural Resources Article, that requires
8 the property to be maintained in a use that is consistent with its use at the time of
9 transfer.

10 (5) Any revenues derived from the sale, transfer, exchange, or grant of
11 property identified under paragraph (1)(i)1 of this subsection shall be deposited in the
12 Advance Option and Purchase Fund under § 5-904(b) of the Natural Resources
13 Article.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 July 1, 2011.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.